

SERIAL 04013 - ROQ

ADULT MENTAL HEALTH ATTORNEY SERVICES –OCC

CONTRACT PERIOD THROUGH JUNE 30, 2007

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **ADULT MENTAL HEALTH ATTORNEY SERVICES –OCC**
(NIGP 96149)

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **June 16, 2004**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

SF/mm
Attach

Copy to: Clerk of the Board
Mark Kennedy, Office of Contract Counsel
Sharon Tohtsoni, Materials Management

(Please remove Serial 02024-ROQ from your contract notebooks)



NOTICE OF SOLICITATION

SERIAL 04013-ROQ

**REQUEST FOR PROPOSAL FOR: ADULT MENTAL HEALTH ATTORNEY SERVICES –OCC
(NIGP 96149)**

Notice is hereby given sealed proposals will be received by the Materials Management Department, Materials Management Center, 320 West Lincoln Street, Phoenix, Arizona 85003-2494, until 2:00 P.M./M.S.T. on **March 11, 2004** for the furnishing of the following for Maricopa County Proposals will be opened by the Materials Management Director (or designated representative) at an open, public meeting at the above time and place.

All applications must be signed, sealed and addressed to the Materials Management Department, Materials Management Center, 320 West Lincoln Street, Phoenix, Arizona 85003-2494, and marked **“SERIAL 04013-ROQ REVIEW OF QUALIFICATIONS FOR ADULT MENTAL HEALTH ATTORNEY SERVICES- OCC (NIGP 96149) .”**

The Maricopa County Procurement Code (“The Code”) governs this procurement and is incorporated by this reference. Any protest concerning this Review of Qualifications must be filed with the Procurement Consultant in accordance with Section MC1-905 of the Code.

ANY ADDENDA TO THIS SOLICITATION WILL BE POSTED ON THE MARICOPA COUNTY MATERIALS MANAGEMENT WEB SITE UNDER THE SOLICITATION SERIAL NUMBER.

PROPOSAL ENVELOPES WITH INSUFFICIENT POSTAGE WILL NOT
BE ACCEPTED BY THE MARICOPA COUNTY MATERIALS
MANAGEMENT CENTER

INQUIRIES:

STAN FISHER
SENIOR PROCUREMENT CONSULTANT
TELEPHONE: (602) 506-3274

NOTE: MARICOPA COUNTY PUBLISHES ITS SOLICITATIONS ONLINE AND THEY ARE AVAILABLE FOR VIEWING AND/OR DOWNLOADING AT THE FOLLOWING INTERNET ADDRESS:

<http://www.maricopa.gov/materials/advbd/advbd.asp>

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AGREEMENT (MARICOPA COUNTY CONTRACT FOR ATTORNEY SERVICES)

BUSINESS PLAN

Office of Contract Counsel



Mark Kennedy
Contract Administrator

Memo to: Prospective Contract Attorneys
From: Stan Fisher, Senior Procurement Consultant, Maricopa County
Date: February 19, 2004
Re: SOLICITATION FOR 2005, 2006 & 2007 CONTRACT YEARS

Attached is an application and contract package (Serial 04013-ROQ) for Adult Mental Health service area for a 2005, 2006 & 2007 Indigent Representation contract. ***This is a three (3) year contract with options for up to three (3) renewal years, at the County's option.***

Completing an application is not a commitment that you will accept a contract if it is offered. **However, it is a requirement if you wish to be considered for a contract.** Maricopa County reserves the right to add contractors to this contract as required to meet County requirements.

Please complete all sections of the application form, **sign it where indicated**, and **attach a professional writing sample that you personally drafted and a business plan (see attachment) that outlines your ability and availability to perform the contract(s) applied for.** **Complete and sign the contractor section of the agreement page (Maricopa County Contract for Attorney Services).**

Your application shall be delivered in a sealed envelope, and shall be clearly identified with the serial number and the title of this solicitation. You must **submit one (1) "original" identified as such and five (5) "copies"** of the application and all materials requested for consideration. Applications that do not include all required documents and/or information shall be determined to be non-responsible and **will not be considered for contract award.** Submit your application packet to:

Stan Fisher
Maricopa County, Materials Management
320 W. Lincoln Street
Phoenix, Arizona 85003

To be eligible for award, you are required to be a "registered vendor" with Maricopa County. To accomplish vendor registration you may utilize the following website: www.maricopa.gov/materials or you may call (602) 506-3967. Vendor registration and your application must be in complete agreement. If your application is not in complete agreement, it is the responsibility of the applicant to request the necessary changes, by calling the numbers listed in this section.

AWARDS SHALL ONLY BE MADE TO INDIVIDUALS. AWARDS WILL NOT BE MADE TO A FIRM.

The application deadline is Thursday, March 11, 2002, 2:00 PM.

If you have any questions about the application process, you can contact me at (602) 506-3274.

SECTION I
GENERAL PROVISIONS

1. DEFINITIONS

As used throughout the Contract, these terms shall have the following meanings, unless the context requires otherwise:

- A. Board of Supervisors means Maricopa County Board of Supervisors.
- B. Billable Time means time spent for the benefit of the Client which substantially advances the case toward conclusion. Billable time may include court time, legal research, interviews of the Client and witnesses and other work required to be done to effectively represent the Client. Billable time does not include, for example, the following:
 - 1. non-substantive motions such as motions to continue, motions to withdraw or time spent reviewing a file prior to moving to withdraw;
 - 2. support services or overhead items that are compensated through Contractor's Contract Rate including, such things as secretarial services, typing, leaving messages, mailing letters and photo copying; or
 - 3. activity that does not substantially advance the Client's case, such as waiting for meetings, unanswered telephone calls, leaving a message, or setting up a meeting or conference.
- C. Client means a person who receives services from Contractor pursuant to an assignment by OCC.
- D. Contract means this document and all attachments hereto.
- E. Contract Administrator means the agent designated by the County Administrative Officer to develop, administer and monitor the contracts for OCC.
- F. Contractor means the person listed on the Cover Page of the Contract.
- G. County means Maricopa County and is synonymous with OCC.
- H. Credit is one assignment required by the base compensation as provided in Section III, Compensation, of the Contract.
- I. ***Extraordinary compensation means the calculation of additional compensation beyond that provided by contract. Extraordinary compensation must be negotiated between the Contract Administrator and the Contractor, in writing, based on the facts of the individual case and Contractor's overall compensation under the entire contract.
- J. Fiscal Year is coterminous with the County's fiscal year and which is comprised of the 12 consecutive months from July 1 to June 30.
- K. OCC means the Office of Contract Counsel and is synonymous with Maricopa County.
- L. Parties or Party mean OCC, the County and Contractor, as the context requires.
- M. Reimbursable Expenses means expenses which are (1) reasonable and necessary; (2) for the legal representation of a Client; and (3) approved in advance by the Contract Administrator. "Reimbursable expenses" do not include (1) items that are compensated through billable time; (2) secretarial expenses; (3) travel within Maricopa County; (4) expenses for stationery, postage, envelopes transmission by facsimile, parking and supplies; or (5) fees for the issuance of subpoenas charged by the Clerk of the Court; (6) other items that are

an ordinary cost of doing business, including, but not limited to, the transcription of interviews conducted by the contractor or any other person.

- N. Representation means the services that Contractor provides to a Client in a specific legal matter.
- O. Trial means participation in a court hearing at which jeopardy has attached, witnesses are sworn, and testimony is taken. A trial day is 3.5 or more hours of trial time; a half-day is less than 3.5 hours.

2. *****TERM**

The Contract begins on July 1, 2004 (the "Commencement Date") and expires on June 30, 2007, unless extended, amended or terminated consistent with the provisions of the Contract.

3. **RIGHT TO EXTEND CONTRACT**

The County may, at its option and with the approval of Contractor, extend the term of the Contract up to a maximum of 3 additional one-year periods. Contractor shall be notified in writing by OCC of the County's intention to extend the contract period at least 30 calendar days prior to the expiration of the original contract period. Nothing herein shall be construed to guarantee that the County will subsequently extend or award a Contract.

4. **DEFAULT, SUSPENSION AND TERMINATION**

- A. The Contract Administrator may suspend, modify or terminate the Contract upon Contractor's failure to perform, or upon the occurrence of an event that may cause or result in Contractor's failure to perform any requirement of the Contract. Failure of performance shall include failure by Contractor to fulfill the reporting requirements of the Contract. *** Additionally, Contractor's contract may be terminated due to economic events that may have an adverse effect on the Office of Contract Counsel's budget. Termination will be based on the applicant's score and the court facility that is showing the greatest impact.
- B. The County may terminate the Contract as follows:
 - 1. No Cause: Upon thirty days written notice to Contractor.
 - 2. For Cause: Immediately upon written notice to Contractor.
- C. Contractor may terminate this contract upon 30 days written notice to the Contract Administrator. Contractor's termination of a contract(s) does not terminate contractor's duty to continue representing those cases/persons assigned to contractor prior to the effective date of termination. See paragraph 6(D) below.

5. **NON-EXCLUSIVE STATUS**

OCC may provide the same or similar professional services through persons or firms other than Contractor.

6. **CONTRACTOR'S RESPONSIBILITIES**

- A. Effective Representation. Contractor shall provide effective legal representation of the Client including, but not limited to, the following:

1. contacting the Client concerning the representation within 48 hours of notice of appointment;
 2. maintaining reasonable contact with the Client until the representation is terminated;
 3. using reasonable diligence in notifying the Client of necessary court appearances, including any court action that arises out of the Client's non-appearance; and
 4. conducting such interviews and investigation as are appropriate.
- B. Accept Assignments. Contractor shall accept all assignments made by the Contract Administrator unless Contractor is not ethically permitted to accept the Representation under the Arizona Rules of Professional Conduct.
- C. Replacement Representation. In the event Contractor becomes unable to complete an assignment and is allowed to withdraw, Contractor immediately shall report the circumstances to OCC so that OCC may appoint replacement counsel. OCC may require Contractor to account for the time Contractor has actually expended and to return any payment for the Representation where appropriate.
- D. Continuing Representation. Contractor has a continuing duty to represent Clients until the court has terminated the Representation. Termination of a contract(s) by either the County or the Contractor does not terminate Contractor's duty to provide services in those cases assigned prior to the effective date of termination. The County will not compensate Contractor for services rendered after termination or expiration of the Contract absent extraordinary circumstances.
- E. Removal for Failure of Performance. In the event a Court removes Contractor from Representation due to any failure of performance relating to the Representation, Contractor shall reimburse the County for any payment made to Contractor relating to the Representation and provide a written explanation of the failure of performance.
- F. Determination of Indigence. Contractor shall notify the court and request a re-determination of the Client's indigence if reasonable grounds exist to believe that a Client is not indigent. In the event the court permits Contractor to withdraw from the Representation, Contractor may not represent the Client for a fee arising out of that Representation without prior written approval of the Contract Administrator. In the event the court permits Contractor to withdraw from the representation, Contractor shall notify OCC of that ruling.
- G. No Additional Compensation. Contractor may not solicit or accept private or additional compensation of any kind, including attorneys' fees or damages, in any matter that relates to or arises out of a pending assignment or Representation, other than compensation as specified in the Contract.
- H. Records and Reports. Contractor shall create and keep detailed and accurate case logs, final disposition records and time sheets relating to the Representation. Contractor will report on a timely basis data and statistics periodically to the Contract Administrator in the manner prescribed by OCC. Failure to submit case logs, final disposition records and time sheets in the time and manner specified by OCC will result in withholding compensation until the contractor is in compliance. Contractor shall make available for inspection and copying by the County all records and accounts relating to the work performed or the services provided under the Contract, except any document that is privileged as an attorney-client communication. Contractor shall safeguard confidential and privileged information in accordance with all applicable laws, rules, and regulations. ***See also Section I, Part 6, subsection T.

- I. Cooperation. Contractor shall assist the County in monitoring Contractor's performance of the Contract. Contractor shall cooperate with other OCC contractors and staff, and shall carefully plan in order to perform duties under this contract timely and effectively. Contractor shall not commit or permit any act that will interfere with the performance of work by the Contract Administrator, any Contract Attorney or their staffs. Contractor shall notify OCC if any non-contract counsel enters an appearance on behalf of a criminal defendant or a Knapp v. Hardy or other basis.
- J. Vacation Days. Contractor may designate 10 days during the term ("Vacation Days") for which no appointments will be accepted; provided, however, that the last 10 days of the contract term may not be designated as Vacation Days unless Contractor has received the total number of assignments authorized pursuant to the Contract. Contractor shall facilitate the orderly scheduling of cases by notifying OCC, in writing, at least 14 days prior to invoking this provision.
- K. Substitute Performance. This is a personal services contract between Contractor and the County. Contractor may substitute performance only a) through a conflict-free Contract Attorney and b) with the written consent of the Contract Administrator. ***No previous substitute performance agreements are recognized or accepted by OCC simply because a previous Contract Administrator gave verbal or written consent to such agreements. Any previous consent to such agreements is revoked. Contractor shall provide a substitute performance ***only in the event Contractor is ill, on approved vacation, or otherwise unable to appear at any court proceeding. Notwithstanding the foregoing, Contractor shall remain primarily responsible for the performance of the Contract.
- L. Requests for Expenditures. Contractor shall submit for approval by the Contract Administrator all requests for payment of expert witness fees, travel expenses, publication of legal notices, social workers, service of process (other than local service), court transcript fees and other expenditures. Contractor may not incur any expense for the account of the County without prior approval of the Contract Administrator. *** Failure to obtain prior approval will result in non-payment for the expenditure and the debt shall become the personal responsibility of the contractor. ***A copy of the approval must be given to the approved experts, transcriptionist, investigators, newspapers etc. for their billing purposes prior to the commencement of their work. *** If an approved expert, transcriptionist, investigator or other person exceeds the OCC approved amount for the expenditure, OCC is not obligated to pay any such overage and it becomes the personal responsibility of the contractor. When billing for reimbursement, receipts for all expenses must be attached. All expenses must be approved by OCC prior to the inception of the expense.

OCC will not reimburse Contractor for office supplies, secretarial or other staff services, transcripts of witness interviews or any other type of expense that involves the general cost of doing business including, but not limited to, long-distance telephone calls, unless approved in advance by the Contract Administrator as an extraordinary expense.
- M. Investigators. Contractor shall submit for approval by the Contract Administrator any request for appointment of an investigator. *** OCC will appoint an investigator from a group of contracted investigators and approve a specific maximum number of billable hours to be expended by the investigator on the case. Contractors no longer have the ability to designate which investigator he/she may want. Any such designation will be done by OCC. Contractor will be responsible for reviewing and certifying the investigator's billings prior to payment by OCC.

***Additionally, conducting witness interviews arranged by the prosecution is **not** the responsibility of the investigator. Conducting these interviews is the responsibility of the assigned lawyer unless the lawyer cannot be present due to illness or other unforeseen emergency. Then, and only then, will investigators be permitted to bill for the time spent conducting this type of interview.

- N. ***Mitigation Specialists. Contractors may submit for preliminary approval by the Contract Administrator any request for appointment of a mitigation specialist. If the nominated mitigation specialist appears to be available to perform the requested work in a timely basis, contractor will request that the assigned trial judge make the appointment. Only upon the approval of the trial judge will the mitigation specialist be authorized to initiate work on the case. In the event that the mitigation specialist should need additional hours, the contractor is then responsible for filing a request with OCC which will then forward the request to the court for approval. Failure to obtain prior approval will result in non-payment and the debt shall become the personal responsibility of the contractor. A copy of the trial court's order of appointment must be given to the appointed mitigation specialist prior to the commencement of any work either at the outset of, or during, an appointment.
- O. Appointment of Interpreters. Court Interpreters will be used for non-English-speaking Clients as reasonable and necessary for all court proceedings and out-of-court matters.
- P. Requests for Court Authorization. Any request made of any Court for any order directing any action ***or payment by OCC or Maricopa County must be served upon the Contract Administrator in compliance with the Rules of Criminal Procedure regarding notice of motions. ***Also see Section I, Part 6, subsection S.
- Q. Compliance with Law. Contractor will comply with all laws, including rules and regulations of all governmental accrediting and regulatory authorities, including the State of Arizona, relating to the licensure and regulation of attorneys. ***In event the contractor is suspended by the Arizona State Bar, on an interim or other basis, contractor must notify OCC of this suspension so that appointment of cases may be stopped. Failure to comply with such notice will result in termination of contractor's contract(s).
- R. ***Technological Equipment. Contractor must possess the following equipment to meet the needs for OCC appointment protocol effective July 1st:
 - 1. Desktop computer operating system or laptop computer,
 - 2. Microsoft Windows Software and Adobe Reader;
 - 3. E-mail address; and
 - 4. Pager and/or cell phone.
- S. ***Court Orders for additional compensation. In the event that a contractor files a motion with any Court for additional compensation that otherwise would not be covered under the contract, contractor must timely serve a copy of the motion upon OCC. Failure to give OCC notice of a motion for additional compensation on a timely basis will result in either suspension or termination of the contract.

- T. *****Monthly Case Logs.** All logs must be returned via internet to OCC by the date designated by the department. This includes all changes to case dispositions, hours-to-date and possible credits. Failure to submit Case Logs by the designated date will result in the withholding of contractor's monthly contract payment or other payments made by the department on a case-by-case basis until such documentation is provided.
- U. *****Billing period** Any case reported to OCC that is six (6) months old or older from the date of appointment will not be compensated by OCC. In addition, no service rendered by contractor that is six (6) months old or older will be paid by OCC. Any such claim must be submitted to the Office of County Counsel.
- V. *****Attorney Complaints.** Any complaint made about a contractor will be forwarded to Contractor with a request for a response to the complaint. The contractor must respond to the complaint in writing within 10 days and submit a copy of Contractor's response thereof to OCC.

7. AVAILABILITY OF FUNDS

Contractor and the County acknowledge that the continuation of any contract after the close of the County's fiscal year, (on June 30 of each year), is contingent upon the approval of a County budget that identifies such contract as an authorized expenditure. The County does not represent that any budget item will be actually adopted. The approval of such expenditures are the exclusive province of the County Board of Supervisors at the time of the adoption of the budget.

8. INDEPENDENT CONTRACTOR

- A. Contractor's relationship to the County shall be as an independent contractor and not as an employee.
- B. This contract does not constitute, create, give rise to or otherwise recognize a joint venture, partnership, ***or employment relationship. The rights and obligations of the Parties shall be only those expressly set forth in the Contract.
- C. No persons supplied by Contractor in the performance of obligations under the Contract are considered to be County employees, and no rights of County civil service, retirement or personnel rules accrue to such persons. Contractor shall have complete responsibility for all salaries, wages, bonuses, retirement withholdings, workmen's compensation, other employee benefits and all taxes and premiums relating to such persons, and shall save and hold the County harmless with respect to those responsibilities in the event of a claim for one or more of them is brought against Maricopa County.

9. RIGHTS IN DATA

The County shall have the use of data and reports resulting from the Contract without cost or other restriction. The County shall have complete discretion to create or prepare reports or compilations of data relating to the Contract. The data and reports or compilations of data are public records under Arizona law.

10. MALPRACTICE INSURANCE

- A. Contractor will provide to the Contract Administrator a declarations page for a current certificate of insurance for errors and omissions (professional malpractice) coverage in an amount not less than ***\$250,000/\$500,000.

***Errors and omissions Insurance must remain in force during the entire term of the Contract. In the event Contractor's insurance is terminated or suspended, Contractor shall immediately notify the Contract Administrator. Failure to provide proof of errors and omissions coverage during any period of the contract shall result in its termination. Proof of errors and omissions coverage is due on the first day of the second month of the effective date of the contract.

- B. Contractor shall not be entitled to coverage or costs of defense from County or its Self-Insurance Trust from liability or other claims arising from Contractor's performance under the Contract.
- C. Contractor agrees to indemnify the County and hold it harmless from any claim that may arise from Contractor's performance of the Contract.

11. AMENDMENTS

- A. All amendments to the Contract must be in writing, signed by both Parties, and approved by the Maricopa County Board of Supervisors. In the event Contractor becomes temporarily unable to perform the Contract, the Contract Administrator and Contractor shall make reasonable efforts to temporarily suspend payment under the Contract.

12. STRICT COMPLIANCE

Acceptance by OCC of a performance that is not in strict compliance with the terms of the Contract shall not be deemed to be a waiver of any term including strict compliance with all other terms.

13. LAWS, RULES AND REGULATIONS

Performance under the Contract shall be accomplished in conformity with all applicable laws, ordinances, rules, regulations, and zoning restrictions.

14. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

Contractor in the performance of the Contract will not discriminate against any person based on race, religion, sex, national origin, or disability.

15. RETENTION AND ADEQUACY OF RECORDS

Contractor agrees to retain all books, records, and other documents relevant to the Contract for six (6) years after final payment or until after the resolution of any audit questions, whichever is longer. County, State or Federal auditors and any other persons duly authorized by the County shall have full access to, and the right to examine, copy and make use of all such materials.

***OCC will not pay for costs associated with the storage of any records or files relative to, or arising from, this contract.

16. AUDIT AND AUDIT DISALLOWANCES

Contractor shall reimburse the County for any service or expenditure that is not sufficiently documented in Contractor's books, records and other documents. In the event the County disallows any payment or request for payment pursuant to this section, OCC

shall notify Contractor in writing of the disallowance and the required course of action relating to the disallowance. OCC may recover from Contractor any sums due through an action at law or as a setoff or counterclaim.

17. DISPUTES

Except as otherwise provided by law, any dispute arising under the Contract shall be processed according to the procedure identified in the Maricopa County Procurement Code, Section MC1-906.

18. WAIVER OF CLAIMS

- A. Contractor accepts the compensation provided in the Contract in lieu of any other claim, demand, request or compensation for the services that Contractor provides pursuant to the Contract.
- B. ***Contractor's obligations, including the duty of continuing representation, under this section shall survive the termination or expiration of the Contract.
- C. Any dispute concerning the reasonableness or adequacy of the compensation under the Contract shall be resolved by reference to the value of the Contract as a whole and not by reference to a single case or to a portion of the cases that Contractor has performed under the Contract. The value of the Contract as a whole shall be determined by reference to the following factors:
 - 1. County's average cost per case for all the services provided by Contractor under the Contract, compared to the County's average cost per case for the same services performed by the Public Defender, Legal Defender, Legal Advocate, and other Contract Attorneys;
 - 2. County's average cost per hour of services provided by Contractor under the Contract, compared to the County's average cost per hour for the same services performed by the Public Defender, Legal Defender, Legal Advocate and, other Contract Attorneys; and
 - 3. Contractor's average hours per case, compared to the average hours per case for the same services performed by the Public Defender, Legal Defender, Legal Advocate and, other Contract Attorneys.
- D. This section is not severable, in whole or in part, from any other provision of the Contract. In the event any portion of the Contract is construed as invalid or unenforceable, the Contract may be terminated in the sole discretion of the Contract Administrator.

19. GOVERNING LAWS

The Contract shall be governed and construed in accordance with the laws of Arizona. Any action to enforce or interpret the Contract shall be litigated in the Maricopa County Superior Court ***only after the exhaustion of administrative remedies.

20. FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS

The Parties will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any corrective instruments as may be reasonably necessary to carry out the intent of the Contract.

21. **COMPLIANCE WITH APPLICABLE LAWS**

The Parties shall use reasonable efforts to comply with all applicable federal and state laws, rules and regulations.

22. **NOTICE**

All notices, demands and other communications to be given or delivered pursuant to the Contract shall be in writing, and shall be deemed delivered upon the following:

- A. personal delivery;
- B. one (1) business day from the transmission by telecopier; or
- C. three (3) business days from deposit in the United States mail, registered or certified mail, return receipt requested, and postage prepaid to the Notice Address or to the last known address of the Party who is to be given notice.

23. **RULES OF CONSTRUCTION**

- A. Incorporation of Definitions, Recitals and Exhibits. The Parties acknowledge the accuracy of the definitions and recitals set forth in the Contract. All exhibits to the Contract are incorporated into the Contract as if set out verbatim.
- B. Merger. All prior and contemporaneous contracts, agreements, statements and understandings with respect to the subject matter of the Contract, if any, among the Parties, or their agents, are merged into the Contract, and the Contract shall constitute the entire agreement among the Parties.
- C. Successors. The Contract shall be binding upon and inure to the benefit of, and shall be enforceable by, the successors, assignees and transferees of the Parties.
- D. Third Party Beneficiaries; No Rights Conferred on Others. Any person who is entitled to indemnity (i) by the terms of the Contract or (ii) by operation of law, is a third party beneficiary of the Contract to the extent only that such status is necessary to fulfill or enforce the indemnification.
- E. Severability; Blue Pencil. Each provision of the Contract shall be construed to preserve its validity and enforceability to the extent possible. If any provision of the Contract is declared void, invalid or unenforceable, the Party who would have enforced the provision may elect whether the provision shall be (i) modified to the extent necessary to make it valid and enforceable or (ii) excluded from the Contract.
- F. Remedies Cumulative. Any remedy in the Contract is cumulative and is not exclusive of any other remedy nor does it limit any other legal or equitable remedy that may be available to any Party.

24. *****MISCELLANEOUS**

- A. Process Server
Currently, OCC has purchase agreements with E-Z Messenger and Frontier Attorney Services. Once you have a subpoena issued by the Clerk of the Court, contractor may give it directly to one of the firms for service without pre-approval by OCC. You must, however, use the appropriate form so that these firms know to invoice OCC and not you.

B. Court Reporters

Only Appellate and Post-Conviction relief transcripts are paid automatically by OCC. Any other use of court reporters or transcriptionists must be approved before hand by a Request for Expenditure of Funds. It is the contractor's responsibility to deliver the approval to the appropriate vendor. As a general rule, when you request transcripts during a trial (to impeach a witness, etc.), you should make it clear to the court reporter that you alone are requesting a transcript of the testimony and that OCC will pay \$2.50 per page for the original only and an additional \$0.30 per page for one copy. If a motion for retrial is granted, the County Attorney and Defense should share the cost of the transcript of original trial. OCC encourages you to bring this to the court's attention. RUSH (w/in 5 days) and EXPEDITED (w/in 10 days) transcription requests are strongly discouraged. OCC requires that contractor justify such requests with an explanation of why this expense was unavoidable. In the necessity for rush service is the result of delay on contractors part, contractor will be required to pay the premium rate differential to the court reporter.

C. Audio and Video Tape Transcription

Currently, the only approved contract vendor for audio and video tape transcription is A/V Tronics. It is the responsibility of each contractor to deliver the tapes in time to take advantage of the Regular delivery rate (\$2.50/page) of 20 calendar days. The Expedited delivery rate (\$2.75/page) of 10 calendar days and the Rush delivery rate (\$5.00/page) of 1 day will not be approved absent extraordinary circumstances.

D. Travel

All travel for contractors, witnesses or experts must be pre-approved and scheduled through OCC. If a car rental is necessary, OCC will ask that contractor supply OCC with contractor credit card information so that a vehicle may be reserved for contractor. OCC will work with contractor to make these arrangements.

E. Identification Badges

Identification badges are available to contract counsel at no charge. To obtain an identification badge please contact OCC at 602/506-7228 for an appointment.

F. Change of Address/Firm

Please advise OCC promptly in writing of any changes to telephone numbers, e-mail addresses and business addresses. If contractor's business changes its name, i.e., if you form a new P.C., etc., please remember that this will modify the contract contractor has with the Board of Supervisors. OCC asks that you notify OCC in writing, but also work with OCC over the phone, so OCC know who to pay and where to send the checks.

G. Weapons policy

No weapons, loaded or unloaded, props or real, are to be brought into the courthouse buildings. There are security lockers for storage of these items in the court buildings. If you have questions regarding this policy, call Court Administration at (602) 506-3070.

H. Contractor Residential and Business Locations

Due to the nature of our business, OCC cannot contract with an individual who resides or whose business location is outside of Maricopa County.

SECTION II
WORK STATEMENT

1. **EFFECT**

This Work Statement shall control should there be any conflict with the General Provisions or Consideration sections of this contract.

2. **DUTIES**

Contractor will provide counsel to persons in mental health commitment proceedings.

3. **ASSIGNMENT OF CASES**

- A. Contractor will be assigned cases for representation of clients where the County Attorney has filed for involuntary commitment and the Office of the Public Defender has a conflict of interest.
- B. Contractor agrees to accept all assignments made by the Contract Administrator except where the Arizona Rules of Professional Conduct prevent Contractor from ethically accepting the assignment.

4. **CONTRACTOR WITHDRAWAL FROM CASE**

- A. Contractor will continue to represent the client in all future matters as long as the court continues to require it.
- B. For Title 36 Guardianships, Contractor is expected to remain as counsel of record for the purpose of the Annual Renewals of Guardianship.

5. **TERMINATION OF APPOINTMENT**

- A. It is understood by Contractor that the duty to represent individuals pursuant to this contract continues until the appointment is terminated by the court. In some cases, representation will not terminate until after the expiration date of this Contract. Contractor understands that County will compensate Contractor for services rendered past the expiration of the Contract according to the guidelines provided in Section III Consideration.
- B. If Contractor accepts an assignment but is unable to complete representation, Contractor must file a motion to withdraw and notify the Contract Administrator. Upon Contractor's receiving leave of court to withdraw, OCC will appoint substitute counsel.

SECTION III
CONSIDERATION

1. **COMPENSATION**

- A. Contractor's primary source of compensation for the services performed pursuant to this contract shall be the client. The Public Defender's Office will withdraw if the client is not indigent. OCC will pay the amounts provided for in this contract only if the client is without funds.
- B. Contractor will be paid at the rate of \$60.00 per hour for all work performed up to a maximum of \$2,400 per case assignment. After forty hours of billable time on any case, Contractor must request extraordinary designation of the case before further payment will be made.
- C. This is a three (3) year contract, with the 1st year period defined as July 1, 2004 thru June 30, 2005 and the 2nd year period defined as July 1, 2005 thru June 30, 2006 and the 3rd year period defined as July 1, 2006 thru June 30, 2007.

2. **CLAIMS FOR PAYMENT**

- A. Contractor must submit an original Invoice in Support of Request for Warrant on the form prescribed by the County for payments. Invoices submitted more than six (6) months after the date of the appointment must be submitted to County Attorney's Office, Division of County Counsel as a claim against Maricopa County.
- B. If OCC disallows a portion of any claim, the claim shall be processed for the reduced amount. If the Contractor protests the amount or the reason for a disallowance, the protest shall be construed as a dispute concerning a question of fact within the meaning of the Disputes clause of the General Provisions section of this Contract.

3. **TAXES AND BENEFITS**

Contractor assumes sole and exclusive responsibility for payment of any federal and state income taxes, federal social security taxes, unemployment insurance benefits, workman's compensation and other mandatory governmental obligations, if any, and any pension or retirement program. Contractor agrees to indemnify and hold the County harmless for any and all liability which the County may incur because of Contractor's failure to pay such taxes or obligations, including any liability for any such taxes or obligations.



SERIAL 04013-ROQ

Application for Indigent Representation
Office of Contract Counsel
Submit Applications to:
Materials Management
320 W. Lincoln St.
Phoenix, AZ. 85003

Please complete a separate application for each type of contract for which you are applying. This application is for the following contract (check only one):

JUVENILE CONTRACTS

- ☐ Juvenile Delinquency _____
Indicate SEF/Durango
- ☐ Juvenile Dependency _____
Indicate SEF/Durango
- ☐ Juvenile Appeals _____
- ☐ Special Advocacy _____
Includes: DR, CV, CR, PB, JN, FC, etc.
- ☐ Juvenile Drug Court _____
Indicate SEF/Durango

ADULT CONTRACTS

- ☐ Adult Felony _____
Indicate SEF/Downtown
- ☐ DUI _____
- ☐ Homicide _____
- ☐ Adult Appeals/PCR _____
- ☐ Death Penalty _____
- ☐ **(Probate Only)** Quadrant 1 2 3 4 SEE EXHIBIT A
Indicate Preferred Quadrant, by circling preference(s).
- ☐ Mental Health _____

PREFERENCE:

- ☐ Juvenile Contracts ☐ Adult Contracts

NOTE: Please indicate the contract you wish to apply for in the above box by checking the appropriate box. If you wish to rank your order of preference for this contract, please rank it on the line provided next to the contract type. If a preference for a facility is not indicated on application, one may be assigned to you. Additionally, OCC no longer allows contractors hold to both juvenile and adult contracts. Please check one of the above boxes under **Preference** indicating your preference. If a preference is not checked this may result in a non-recommendation for award of contract.

GENERAL INFORMATION

Contract Number _____
Located in the upper left corner of contract signature page.

Social Security Number _____

Last Name _____

First Name _____

Business Address _____

City _____ Zip _____

Business Phone _____ Fax Number _____

Home Phone _____ Pager/Cell _____
Mandatory

E-mail Address _____
Mandatory

GENERAL INSTRUCTIONS

- Type or print in black ink this application in its entirety.
- Specify Contract Number for which you are applying. (Note: a **separate** application must be submitted for each contract.
- Sign the form; please note that all information given is subject to verification.
- Submit the completed application by the closing date noted on the bid solicitation.
- Retain a copy of this application for your records. Once submitted, copies will not be provided to applicants.

FILL OUT ACCORDINGLY

Are you currently employed by Maricopa County/ Superior Courts YES ☐ NO ☐

Have you ever worked for Maricopa County/Superior Courts YES ☐ NO ☐

Are you currently licensed to practice law in Arizona? YES ☐ NO ☐ State Bar ID: _____

Bar admissions and dates _____

Firm Name _____ Federal Tax ID No. _____

Please list associates and/or partners _____

Have you ever been denied admission to the Bar of any state? _____

Has a charge of professional misconduct ever been made against you with a state bar in any jurisdiction? If so, provide details, including date and resolution.

List, describe and provide the date of any sanctions imposed upon you by any court for violation for any rule, procedure, or for any other impropriety: _____

What other public contracts do you currently hold, or will you seek during this contract period. (If Maricopa County awards you a contract, you will be required to maintain a current statement of other contracts simultaneously held.)

| EDUCATION | | | |
|---------------------|-------|----------------|----------------|
| College/University | Dates | Type of Degree | Degree Awarded |
| | | | |
| | | | |
| | | | |
| Law School attended | Dates | Type of Degree | Degree Awarded |
| | | | |
| | | | |
| | | | |

List your three most current CLE courses: _____

| Driver's Licenses, Professional Licenses, Certifications and Registrations | | | |
|--|------------|-----------|--------------------|
| Type(s) | Lic/Reg. # | Exp. Date | State of Insurance |
| | | | |
| | | | |
| | | | |

| Skill in languages other than English | | | |
|---------------------------------------|---|--------------------------------|--------------------------------|
| Language(s) | Check elements attained for each language | | |
| | <input type="checkbox"/> Read | <input type="checkbox"/> Write | <input type="checkbox"/> Speak |
| | <input type="checkbox"/> Read | <input type="checkbox"/> Write | <input type="checkbox"/> Speak |
| | <input type="checkbox"/> Read | <input type="checkbox"/> Write | <input type="checkbox"/> Speak |

| MEMBERSHIP AND ACTIVITIES IN PROFESSIONAL ORGANIZATIONS | | |
|---|------------|-------------|
| MEMBERSHIP/ORGANIZATION | ACTIVITIES | TOTAL YEARS |
| | | |
| | | |
| | | |

WORK HISTORY

Please describe chronologically your law practice and experience since your graduation from law school.
FAILURE TO PROVIDE COMPLETE AND ACCURATE INFORMATION WILL RESULT IN DISQUALIFICATION.

Current/Last Employer _____ Kind of Business: _____
 Address: _____ Phone Number _____
 Your job title _____ Supervisor's Name _____
 From ____/____ Full-Time ☐ Part-Time ☐ # of hours worked per week _____
 Month Year

Duties and Responsibilities

Previous Employer _____ Kind of Business: _____
 Address: _____ Phone Number _____
 Your job title _____ Supervisor's Name _____
 From ____/____ Full-Time ☐ Part-Time ☐ # of hours worked per week _____
 Month Year

Duties and Responsibilities

If needed, attach additional sheets, using the same format as this application.

WORK HISTORY

Please describe chronologically your law practice and experience since your graduation from law school.
FAILURE TO PROVIDE COMPLETE AND ACCURATE INFORMATION WILL RESULT IN DISQUALIFICATION.

Current/Last Employer _____ Kind of Business: _____
 Address: _____ Phone Number _____
 Your job title _____ Supervisor's Name _____
 From ____/____ Full-Time ☐ Part-Time ☐ # of hours worked per week _____
 Month Year

Duties and Responsibilities

Previous Employer _____ Kind of Business: _____
 Address: _____ Phone Number _____
 Your job title _____ Supervisor's Name _____
 From ____/____ Full-Time ☐ Part-Time ☐ # of hours worked per week _____
 Month Year

Duties and Responsibilities

If needed, attach additional sheets, using the same format as this application.

Describe the nature of your law practice and any specialties in which you have been certified by the Arizona State Bar:_____.

- a. What percentage of your practice consists of litigation in:
Civil_____ Criminal/Delinquency_____ Probate_____ Mental Health_____
- b. What percentage of your court appearances are in:
Federal Court_____ Superior Court_____ Justice Courts_____ Regional Court Centers_____ City Courts_____
- c. In the last three years:
How many juries have you tried to verdict?_____
How many trials to the Court?_____
How many appeals have you written and argued?_____

The following information on this page is being compiled by the Maricopa County Materials Management Department to comply with applicable federal and state regulations to do related statistical research. You are not required to furnish this information, but your cooperation is encouraged. The information provided on this form is CONFIDENTIAL.

| | | |
|--|---|---|
| Date of Birth <div style="border-bottom: 1px solid black; width: 100px; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between; width: 100px;"> month day year </div> | Disabled? <input type="checkbox"/> YES <input type="checkbox"/> NO | How did you first learn of this contract? <input type="checkbox"/> Newspaper <input type="checkbox"/> Contract Announcement posted in the Maricopa County Materials Management Department. <input type="checkbox"/> From a County Employee <input type="checkbox"/> Internet/Intranet <input type="checkbox"/> Other |
| Ethnic Category <input type="checkbox"/> White (Not of Hispanic Origin) <input type="checkbox"/> Black (Not of Hispanic Origin) <input type="checkbox"/> Hispanic <input type="checkbox"/> American Indian or Alaskan Native <input type="checkbox"/> Asian or Pacific Islander | Gender <input type="checkbox"/> Male <input type="checkbox"/> Female | Vendor Classification <input type="checkbox"/> Vendor (any individual, company, corporation or other entity potentially able to provide any commodity or service to the county). <input type="checkbox"/> Non-Registered Vendor (a vendor who has not registered, through Materials Management, and does not have a County Vendor number. A payment cannot be made to this vendor). <input type="checkbox"/> Registered Vendor (a vendor who has registered, through Materials Management, and has a County Vendor Number. Payments may be made to this vendor. However, this designation does not imply that this classification of vendor has a County Contract and may automatically be given County business without a competitive process in accordance with the Procurement Code). <input type="checkbox"/> Contract Vendor (a vendor who has registered, through Materials Management, and has a County Vendor Number. This vendor has also been awarded a contract in accordance with the Procurement Code, to provide specific commodities or services to the County. A contract number is associated with this procurement. This vendor shall be utilized for specific purchases unless prior authorization is received from the Department of Materials Management). <input type="checkbox"/> M/WBE Vendor (a vendor whose company is owned and operated by a Minority or Woman). <input type="checkbox"/> M/WBE Certified Vendor (a vendor who qualifies as a Certified Minority or Woman Owned Business. This vendor must appear on the M/WBE listing provided by MCDOT in order for the County to recognize this status). <input type="checkbox"/> M/WBE Certified and Registered Vendor (a vendor who qualifies as a Certified Minority or Woman Owned Business. This vendor must appear on the M/WBE listing provided by MCDOT in order for the County to recognize this status. This vendor also has a County Vendor Number. N/WBE Certification does not substitute for the requirement of being registered as a vendor with the County). |

NOTE: Maricopa County has entered into an agreement with the City of Phoenix for M/WBE Certifications services. The list of Certified M/WBE Businesses is generated and maintained by the City of Phoenix. Do not call the city directly regarding M/WBE vendors. Direct your calls to either MCDOT or Materials Management.

I certify all information given by me in this application is true. I authorize Maricopa County and the Office of Contract Counsel to verify the information provided and realize that false information (misrepresentation or omission of information called for) is a basis for disqualification or dismissal. I have read the contract and agree to the conditions established therein. I authorize Maricopa County and the Office of Contract Counsel in Maricopa County to contact current and previous employers if I am one of the top candidates. I further authorize current and former employers to give you any and all information concerning my previous employment and any pertinent information they may have, and release all parties from all liability for any damages that may result from furnishing such information.

Sign: _____ Date: _____

| | |
|----------------------------------|--------------------------------|
| Contract No.: 04013-ROQ | Contract Type: Variable Cost |
| Contract Amount: \$ Schedule Fee | Purpose: Mental Health |
| Budget Code: 100-560-5673 | Contractor TIN/SSN: |
| Start Date: July 1, 2004 | Expiration Date: June 30, 2007 |

This contract is entered into by and between _____,
(Applicant's name)

licensed attorney(s) in the State of Arizona, referred to hereinafter as Contractor, and Maricopa County, Office of Contract Counsel, referred to hereinafter as OCC. The Contractor, for and in consideration of the covenants and conditions set forth herein, shall provide and perform the services as set forth below. All rights and obligations of the parties shall be governed by the terms of this document, its exhibits, attachments and appendices, including any subcontractors or amendments as forth herein and in:

Section I – General Provisions
Section II – Work Statement
Section III - Consideration

This contract contains all of the terms and conditions agreed to by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto. Nothing in this Contract shall be construed as consent to be sued or as waiver of any defense in a suit brought against the State of Arizona, Maricopa County, Office of Contract Counsel or Contractor in any State, or Federal Court.

Legal notice under this Contract shall be given by personal delivery, or by registered or certified mail, to the addresses set forth below and shall be effective upon deposit in the mail, postage pre-paid, and addressed as provided below.

Notice to Contractor: _____ Phone: _____

Address: _____

Notice to Maricopa County: Materials Management

Address: 320 W. Lincoln, Phoenix • AZ. 85003 Phone: (602)506-3967

IN WITNESS WHEREOF, the parties enter into this Contract:

CONTRACTOR

**MARICOPA COUNTY
BOARD OF SUPERVISORS**

BY: _____
Signature

BY: _____
Chairman

BY: _____
Signature

Attest: _____
Clerk of the Board

Type or Print Attorney's or Firm Name

Approved as to form:

Maricopa County Attorney Date

BUSINESS PLAN

NOTE: All of the questions below must be fully answered. Any questions not answered may result in disqualification.

SECTION ONE

DESCRIPTION OF THE BUSINESS

Question 1. What is the status of the business? Select sub-sections a, b, c or d below and answer the series of questions associated with that sub-section.

a.) ☐ Start-up

1. Why will you succeed in this business?

2. What is your experience in this business?

3. What will be special about your business?

b.) ☐ Expansion

1. How will you effectively manage the expansion of your business?

2. Into what areas are you expanding your business?

c.) ☐ Takeover

1. When and by whom was the business founded?

2. Why is (did) the owner selling it?

3. If the business is not succeeding, why? How can you make it more successful?

4. How will your management make the business more profitable?

d.) ☐ Existing

1. What action are you taking to improve your business?

2. What do you expect of your existing business?

Question 2. Why is your business going to be profitable (or continue to grow)?

Question 3. When will (did) your business open?

month year

SECTION TWO
PRODUCT/SERVICE

Question 4. How do your services differ from your competitors?

Question 5. If your service line is not special, why should Maricopa County award you a contract?

Question 6. What benefits do your clients think they receive from your services?

Question 7. What service benefits does your company have that would cause Maricopa County Office of Contract Counsel to award your business a contract?

SECTION THREE

S.W.O.T ANALYSIS

Question 8. Define the strengths of your business. A strength is something a company is good at doing or a characteristic that gives it enhanced competitiveness.

Question 9. Define the weaknesses of your business. A weakness is something a company lacks or does poorly or a condition that puts it at a disadvantage.

Question 10. Define the opportunities of your business. An opportunity is something a company uses to shape its strategy.

Question 11. Define the threats to your business. A threat is something a company is faced with in its external environment that poses a threat to its profitability and competitive well-being.

JONATHAN P SCHUBERT, 2800 N CENTRAL AVE SUITE 1400, PHOENIX, AZ 85004-1045

PRICING SHEET P081105/B0700006 NIGP 96149

Terms: NET 30

Federal Tax ID Number: 56-2591164

Vendor Number: 562591164

Telephone Number: 602/265-4443

Fax Number: 602/265-4241

Contact Person: Jonathan Schubert

E-mail Address: jps@jpschubert.com

Contract Period: To cover the period ending **June 30, 2007.**